



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:
Doss Jr. et al.

Application No: 10/810,082

Filed: March 26, 2004

Title: Adaptive Duplexing For Amplified
Telephone

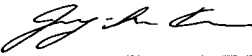
Attorney Docket No. 02-1757

Examiner: Briney III, Walter F

Art Unit: 2646

CERTIFICATE OF MAILING OR TRANSMISSION

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Signed: 

Typed Name: Jung-hua Kuo

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection mailed on July 14, 2005 in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheets (5 pages).

Note: No more than five (5) pages may be provided.

I am the:

- ☒ attorney or agent of record. Registration Number 44,780.
☐ attorney or agent acting under 37 CFR 1.34. Registration Number _____.
☒ If the required fees are missing or any additional fees are required during the pendency of the subject application, please charge such fees or credit any overpayment to Deposit Account No. 50-2315 (Order No. **02-1757**). A copy of this sheet is enclosed.

Respectfully submitted,



June 13, 2006

Date

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Signed: _____

Typed Name: Jung-hua Kuo

Reasons For Pre-Appeal Brief Request For Review

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The reasons for the Pre-Appeal Brief Request for Review are set forth below.

In rejecting claims 1-27 under 35 U.S.C. §103(a), the Examiner did not establish that Nadell et al. (USPN 5,450,618) in view of Arnaud (US Pat. Re. 36,934) renders the claimed inventions obvious

Claims 1-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Naddell in view of Arnaud. However, the Examiner did not establish that Nadell in view of Arnaud discloses each and every element of the claimed invention to render the claims unpatentable.

Independent claim 1 generally recites a telephone system that includes a controller that selectively operates the telephone system in (a) a full duplex mode *in response to* the receiver gain being approximately less than the receiver stability level or (b) in an adaptive duplex mode *in response to* the receiver gain being approximately above the receiver stability level.

As generally recited in claim 1, the controller selectively operates the telephone system in a full or adaptive duplex mode in response to the receiver gain being approximately less than or above the receiver stability level (i.e., not in response to user selection of full or half duplex mode).

In contrast, Naddell discloses a telephone system that includes a controller that operates the telephone system in a full duplex mode in response to user selection, i.e., via the mode button being depressed or not depressed (extended) by the user. See, for example, the volume/mode button 106 in FIG. 1, the volume/model button 202 in FIG. 2; the mode selector 306 in FIG. 3, and block 403 (“Set mode = full duplex”) extending from the “Yes” path from block 402 (“Mode Button in?”) in FIG. 4. See also associated text in the specification, for example,

With respect to the full duplex mode, Naddell’s controller operates the telephone system in a full duplex mode not only in response to the user depressing the mode button 106, but also regardless of the volume level setting (e.g., the receiver gain, as recited in independent claim 1), and certainly not in response to the receiver gain being approximately less than the receiver stability level.

Naddell expressly states that “When in full duplex mode, such as when making a telephone call, the volume level is automatically set at a predetermined level regardless of the volume level setting to provide telephone style calling convenience.” (Col. 2, lines 44-48, emphasis added). As another example, Naddell further states that “When the button 106 is depressed (the staff is not exposed), a full duplex mode of operation is selected and the volume level is set at a predetermined level regardless of the rotation position of the button.” (Col. 3, lines 5-9, emphasis added). See also col. 3, lines 49-53: “When the switch staff is concealed (switch pushed in), the communication unit is set to the full-duplex mode of operation 403. In the full duplex mode, the audio level is set to a predetermined low level regardless of the volume setting on the switch 404” (emphasis added).

As is evident, Naddell’s controller operates the telephone system in a full duplex mode purely and exclusively *in response to the mode button being depressed by the user*, and not in response to the receiver gain, much less in response to the receiver gain being approximately less than the receiver stability level.

With respect to the half duplex mode, Naddell’s controller similarly operates the telephone system in a half duplex mode purely and exclusively in response to the mode button being not depressed (extended) by the user, and not in response to the receiver gain being approximately above the receiver stability level. For example, Naddell states that “When operating in a half duplex mode, ... the volume level setting is adjustable [by the user]”

(Col. 2, lines 48-52). As another example, Naddell further states that “When the volume/mode button 106 is in the extended position (the staff is exposed), a half duplex mode of operation is selected. With the staff exposed, the button 106 can be rotated to adjust the volume level of received audio signals” (Col. 2, line 67 – col. 3, line 5). See also col. 3, lines 59-63: “When the switch staff is exposed, the communication unit is set to the half-duplex mode of operation 406.”

Furthermore, it is only after the half duplex mode is enabled that the controller even monitors the volume control rotary switch to determine the volume setting. See, for example, col. 3, lines 61-68, emphasis added: “After enabling the half duplex mode, the communication unit monitors the volume on/off control rotary switch to determine the volume setting or whether the communication unit is off 407. If the communication unit is on, it determines the volume level setting based on the position of the switch 408.”

The addition of the secondary reference Arnaud does not make up for the deficiencies of Naddell. Thus because neither Naddell nor Arnaud discloses or suggests a controller that selectively operates the telephone system in a full duplex or adaptive duplex mode in response to the receiver gain being approximately less than or above the receiver stability level as generally recited in independent claim 1, even if the half duplex system of Arnaud were incorporated into the telephone system of Naddell, the resulting system would not read on the claimed system of independent claim 1.

In the final Office Action, the Examiner contends that the applicants’ interpretation of the button 106/202 and its position “has excised the actual changes in parameters that occur in response to the position of button 106/202.” (Final Office Action, page 8, last paragraph). However, as recited in independent claim 1 and as discussed above, the controller selectively operates the telephone system in a full duplex mode in response to the receiver gain being approximately less than the receiver stability level and selectively operates the telephone system in an adaptive duplex mode in response to the receiver gain being approximately above the receiver stability level. In other words, when the controller determines that the receiver gain is approximately less than the receiver stability level, the controller selectively operates the telephone system in a full duplex mode. Similarly, when the controller determines that the

receiver gain is approximately above the receiver stability level, the controller selectively operates the telephone system in a half duplex mode.

The Examiner also states in the final Office Action that “the position of button 106/202 is not just related to an arbitrary selection between full and half-duplex telephony, but to a selection between low and high-volume level telephony, where the desired volume level selected determines the appropriate mode of operation – i.e. half and full-duplex telephony.” (Final Office Action, page 9, lines 4-7).

In other words, the Examiner contends that a user makes a selection between low and high-volume level telephony (and not between half and full-duplex modes). However, low volume selection results in full duplex operation (and never half duplex operation) while high volume selection results in half duplex operation (and never full duplex operation). As such, the user selection between low and high-volume level telephony directly determines half and full-duplex mode. No matter the characterization as between full vs. half duplex or between high vs. low volume, in the end, it is the user making the selection between full or half duplex operation.

Independent claims 10 and 19 recite elements similar to those discussed above with reference to independent claim 1. Thus the discussion above similarly applies to independent claims 10 and 19 and is not repeated herein for purposes of clarity.

In view of the foregoing, Nadell in view of Arnaud does not render the claimed inventions unpatentable under 35 U.S.C. §103(a). Withdrawal of the rejection of claims 1-27 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

Because the Examiner’s rejections of claims 1-27 include legal deficiencies with regard to under 35 U.S.C. § 103(a) and the MPEP, Applicants are entitled to a pre-appeal brief review of the final rejection. And based on the foregoing arguments, Applicants request that the rejection of these claims be withdrawn and the pending claims be allowed.

If the required fees are missing or any additional fees are required during the pendency of the subject application, please charge such fees or credit any overpayment to Deposit Account No. 50-2315 (Order No. **02-1757**).

Respectfully submitted,



June 13, 2006
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